



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON, D.C. 20370-5100

TRG

Docket No: 6406-00

3 November 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) Case Summary
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Marine Corps Reserve filed an application with this Board requesting that his record be corrected to show that he transferred to the Retired Reserve vice being discharged on 20 December 1999.

2. The Board, consisting of Ms Madison, Ms. McCormick and Mr. Mazza, reviewed Petitioner's allegations of error and injustice on 31 October 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Petitioner's application was filed in a timely manner.

c. Petitioner reenlisted in the Naval Reserve for four years on 21 November 1992 in the rate of HMC (E-7). He subsequently extended that enlistment on two occasions totaling 37 months. On 20 June 1995 he was issued a Notification of Eligibility for Retired Pay at Age 60. He then continued to drill for several years and apparently then transferred to the Individual Ready Reserve. On 29 November 1999, the Naval Reserve Personnel Center (NRPC) sent him a letter informing him that his enlistment was about to expire and that he had to request retirement before the expiration of his enlistment. Petitioner was honorably discharged on 20 December 1999 at the expiration of his enlistment as extended.

d. Petitioner states that he misplaced the NRPC letter

informing him he had to request discharge and his enlistment expired before he could respond.

e. The Board did not request an advisory opinion in this case. However, the Board is aware that Navy Personnel Command has routinely recommended favorable action in similar cases in which an individual was eligible for reserve retirement and there is no explanation in the record why the individual was discharged and not retired, or administrative errors occurred which precluded retirement prior to discharge.

f. The Board is aware that the Uniform Retired Date Act, 5 U.S.C. 8301 requires that the effective date of any retirement be the first day of the month.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner was in good standing in the Naval Reserve and would have been retired if he had requested such action in a timely manner. Therefore, the Board concludes that Petitioner should be transferred to the Retired Reserve in the rate of HMC. Given the requirement of the Uniform Retirement Date Act, the Board further concludes that Petitioner should be transferred to the Retired Reserve effective 1 December 1999.

The Board also concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status in the Retired Reserve.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 1 December 1999 he transferred to the Retired Reserve in the rate of HMC vice being discharged on 20 December 1999.

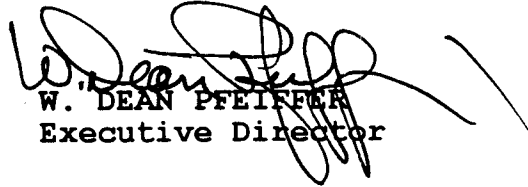
b. That this Report of Proceedings be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director